

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Kimmie Lamont Moore,)	C/A No. 4:13-459-JFA-TER
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
Lt. John Bennett; Sgt. James Robertson;)	
Officer B. Barnes; Officer J. Timms;)	
Nurse Wagner,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Kimmie Lamont Moore, is an inmate with the South Carolina Department of Corrections. He brings this action pursuant to 42 U.S.C. § 1983 contending that the defendants violated his constitutional rights by subjecting him to excessive force.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this court should dismiss the action for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The defendants filed a motion for summary judgment, however, the plaintiff did not respond to the motion.²

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

² An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying plaintiff of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Plaintiff did not respond to the motion despite being given an extension of time to do so.

The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

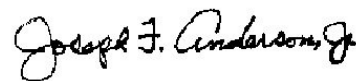
The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on April 1, 2014. However, the plaintiff did not file objections and the time within which to do so has now expired. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

The Magistrate Judge has allowed the plaintiff time to respond to the court's various orders and the plaintiff has failed to do so. This court agrees with the Magistrate Judge that the plaintiff meets all of the criteria for dismissal under Rule 41(b). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *Davis v. Williams*, 588 F.2d 69 (4th Cir. 1978).

Accordingly, this action is dismissed with prejudice for lack of prosecution. The Clerk shall docket the defendants' motion for summary judgment as moot.

IT IS SO ORDERED.

April 30, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge